

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits – High Court of A.P., - CC.No.466/10 against W.P.No.13538/04 filed by Sri P.Sudhakar Rao, MAO, Luxettipet, Adilabad Dist., - Assignment of notional date of seniority – Orders – Issued.

AGRICULTURE & COOPERATION (FP.I) DEPARTMENT

G.O.Rt.No. 4

Dated: 03-01-2012.

Read the following:

1. From the C&DA, Hyd., Lr.No.A7(1) 437/2004, dated: 18-1-2011.
2. From the C&DA, Hyd., Lr.No.A7(1) 437/2004, dated: 24-8-2011
and dated: 22-9-2011.

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ORDER:

In the references read above, the C&DA, Hyd., has stated that Sri P.Sudhakar Rao, MAO, (Retd.,) Luxettipet, Adilabad Dist., has filed CC No.466/2010 against W.P.No.13538/2004 for implementation of the assignment of notional date of seniority.

2. In this regard, the C&DA, Hyd., has stated that, the C&DA,Hyd., had notified 381 vacancies of Agricultural Officers during the year 1978 to 1981 to the Employment Exchange for direct recruitment on Emergency basis. The Employment Officer has sponsored 1090 candidates out of which 453 candidates were selected for appointment as Agricultural Officers in different zones in the State ie., Zone.I to Zone.VI. Among the selected candidates 321 were appointed as Agricultural Officers based on vacancy position till 5.-3.1982 ie., till a ban on the emergency recruitment was imposed by Government in Memo.No.60/Ser.A/82-3, dated: 5-3-1982 of GA(Ser.) Dept. Another batch of candidates among the remaining 132 candidates were appointed after the relaxation of ban orders which were imposed by Government vide Memo.No.19503/Agr.V(1)/82-83, dated: 17-9-1982, to the extent of candidates selected by Director of Agriculture, A.P., Hyderabad and kept in waiting list till another ban by the Govt., was imposed on all emergency recruitments in the year 1983 in Memo.No.758/ (Ser.A)83-1, dated: 19-5-1983 of GAD. In the above process 107 candidates selected and kept in merit list were left over without appointment. The following were among the let over 107 candidates viz., belong to Zone.V:-

1. Sri Hassan Mohinuddin
2. Sri P.Sudhakar Rao
3. Sri Abdul Rafi
4. Sri Mohd.Afzaluddin

3. The C&DA, Hyd., has also stated that the above 4 candidates have approached the Hon'ble A.P.High Court for issue of orders appointing them as Agricultural Officers. Though the Hon'ble Single Judge of A.P.High Court allowed W.P. filed by them vide their judgment dated: 30-12-1983, it was subsequently set aside by the division bench in its Judgment dated: 9-3-1984 on appeal by Government on the grounds of lack of jurisdiction. Thereupon the above applicants have approached A.P.A.T.,for their appointment as Agricultural Officers . The A.P.AT, Hyderabad in their order in R.P.No.799/87 filed by the above four individuals, dated: 16-9-1987, directed the Government and the Director of Agriculture that they should be considered for appointment as Agricultural Officers in the available and future vacancies subject to their names finding place in the said waiting list. There upon the C&DA, Hyd., addressed the Government seeking orders to appoint the above petitioner. Government in G.O.Rt.No.1887, F&A (Agrl.IV), dated: 7-9-1990 have directed the C&DA, to take action for appointment of the following petitioners in R.P.No.799/87 as Agricultural Officers.

- i. Sri Hassan Mohinuddin
- ii. Sri P.Sudhakar Rao
- iii. Sri Abdul Rafi
- iv. Sri Mohd.Afzaluddin

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The services of the above Agricultural Officers have been regularized with effect from their dates of joining only.

4. The C&DA, Hyd., has further stated that Sri Hassan Mohinuddin, vide his representation dated: 15-1-1998 and Sri P.Sudhakar Rao, representation dated: 22-1-1998 have requested the C&DA, for giving them notional seniority from the date of appointment of those candidates who were appointed in relaxation of ban orders of 1982 with all consequential benefits. As there is no provision in service Rules for giving retrospective appointment and their request was rejected by Govt., in Memo., No.21464/FP.I-2/98-2, dated: 19-2-1999, Govt., have informed that according to the provisions of general rule 33 (a) of the A.P.S.S.Rules, 1996 the seniority of a person has to be determined by the date of his first appointment only. The individuals were appointed as Agricultural Officers in terms of G.O.Rt.No.1887, dt. 7-9-1990 and there are no provisions in the Rules governing the post or in the general Rules ie., APS &SS Rules for retrospective appointment. Accordingly the same was intimated to the individuals vide C&DA, Memo.No.Estt. VI (1)/357/98, dt. 28-2-1999.

5. The C&DA, Hyd., further stated that OA.No.2590/1999 filed by Sri P.Sudhakar Rao and Sri Hassan Moinuddin was dismissed by the Hon'ble A.P.Adminstrative Tribunal duly rejecting the request of applicants seeking notional date of appointment earlier to the actual date of appointment in the year 1990. Aggrieved by the orders of APAT, they have filed W.P.No.13538 of 2004. The Hon'ble High Court has allowed the WP on 5-3-2009 duly setting aside the Memo. dated: 28-2-1999 of the first respondent and also the order dated 11-2-2004 passed by the Tribunal.

6. The C&DA, Hyd., has further stated that the O/o C&DA, has filed SLP (Civil) No.30636/2009 before the Hon'ble Supreme Court. The Hon'ble Supreme Court, new Delhi has issued the following Orders:-

“Delay condoned. Issue notice confined to the question of monetary benefits in terms of the impugned order.”

7. In this connection, the opinion of Government Pleader for Ser.I., A.P.High Court was also obtained. The G.P., for Ser.I., APHC has stated that....

“The compliance would mean grant of appointment of petitioners retrospectively. A reading of the order of Hon'ble Supreme Court would show the appeal filed by the State is now confined to monetary benefits payable as a result of retrospective appointment. Thus the decision of Hon'ble High Court with reference to retrospective appointment has become final.

It is necessary to comply with the orders of Hon'ble Court immediately to avoid further complications.”

8. In view of the above, the Commissioner & Director of Agriculture, Hyderabad has stated that, if the judgment of Hon'ble A.P.High Court is implemented by the O/o C&DA, as advised by the Govt. Pleader Ser.I., Hon'ble A.P.H.C., Hyd., the following petitioners in W.P.No.13538 of 2004 have to be assigned notional date of appointment with effect from 5-4-1983 on par with Sri N.Arun Kumar, who was appointed as Agricultural Officer in the Dept., in 1983.

- (1) Sri Hassan Mohinuddin
- (2) Sri P.Sudhakar Rao
- (3) Sri Abdul Rafi
- (4) Sri Mohd.Afzaluddin

9. Therefore, the C&DA, Hyd., has requested the Government to kindly issue necessary orders for the implementation of the judgment of Hon'ble High Court.

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10. In the above circumstances explained by the Commissioner & Director of Agriculture, Hyderabad, Government after careful examination of the proposal, hereby permitted the Commissioner & Director of Agriculture, Hyderabad to implement the orders of Hon'ble High Court in W.P.No.13538 of 2004, dated: 5-3-2009 duly assigning notional date of appointment with effect from 5-4-1983 on par with Sri N.Arun Kumar, who was appointed as Agricultural Officer in the Department in 1983, in relaxation of provisions contained in rule 33 (a) of A.P.State & Subordinate Service Rules, 1996 and accord monetary benefits as per Note (1) under (FR.26 (aa), subject to outcome of the Hon'ble Supreme Court 's orders in the matter.

11. This case cannot be quoted as a precedent for any other case as these orders are issued under some special circumstances as per the directions of the Court.

12. The Commissioner & Director of Agriculture, Hyderabad is requested to take action accordingly.

13. This order issues with the concurrence of Finance (FR.II) Dept., vide their U.O.No.30975/711/FR.II/11, dated: 22-11-2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.NAGI REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Commissioner & Director of Agriculture, Hyderabad.

Copy to:

The Genl. Admn. (Ser.E) Dept.

The Finance (FR.II) Dept.

The Law (LSP) Dept.,

PS to Addl. Secy., to CM.

PS to Dy.C.M., (Agri.,)

PS to Principal Secretary to Govt., (Agri.,)

SF/SC

// forwarded :: by order //

SECTION OFFICER